

AMENDED IN SENATE APRIL 19, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 583

Introduced by Senator Figueroa

February 18, 2005

An act to add Section ~~109336~~ to the Health and Safety Code ~~2234.2~~ to the Business and Professions Code, relating to cancer.

LEGISLATIVE COUNSEL'S DIGEST

SB 583, as amended, Figueroa. Cancer: ~~none~~conventional treatment.

Existing law requires the Division of Medical Quality of the Medical Board of California to take action against a licensee under the Medical Practice Act who is charged with unprofessional conduct.

This bill would specify that a physician and surgeon who provides treatment to cancer patients is not subject to certain disciplinary action for unprofessional conduct on the basis that the treatment or advice rendered to the patient is alternative or complimentary medicine, as defined, if that treatment or advice meets specified requirements, including not delaying traditional diagnosis and not causing death or serious bodily injury to the patient.

~~Existing law makes it a misdemeanor for any individual, person, firm, association, or other entity representing himself or itself, as engaged in the diagnosis, treatment, alleviation, or cure of cancer to fail to comply with regulations regarding the treatment of cancer.~~

~~This bill, notwithstanding these provisions, would prohibit any licensed physician and surgeon or licensed naturopathic doctor from being in violation of the laws regarding the treatment of cancer or any other law solely on the basis that the advice or treatment for cancer rendered by the physician and surgeon or naturopathic doctor to a patient is an innovative or evolving medical treatment or natural~~

~~health or drugless methodology, provided that the advice or treatment rendered complies with other requirements relating to the use of alternative or complementary medicine.~~

~~The bill would authorize a licensed physician and surgeon and a licensed naturopathic doctor to provide natural health or drugless methodologies as part of complementary, combined, or modified conventional allopathic treatment for cancer rather than conventional allopathic treatments. It would also permit these physicians and surgeons and naturopathic doctors to be independent practitioners or partners in a shared practice with a conventional allopathic physician, and would permit patients to be referred to them by qualified conventional allopathic cancer specialists.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 109336 is added to the Health and~~
- 2 ~~Safety Code, to read:~~
- 3 ~~SECTION 1. Section 2234.2 is added to the Business and~~
- 4 ~~Professions Code, to read:~~
- 5 ~~2234.2. Notwithstanding any other provision of law, a~~
- 6 ~~physician and surgeon who provides treatment to cancer patients~~
- 7 ~~shall not be subject to discipline pursuant to subdivision (b), (c),~~
- 8 ~~or (d) of Section 2234 solely on the basis that the treatment or~~
- 9 ~~advice he or she rendered to a patient is alternative or~~
- 10 ~~complementary medicine if that treatment or advice meets all of~~
- 11 ~~the following requirements:~~
- 12 ~~(1) It is provided after informed consent and a good-faith~~
- 13 ~~prior examination of the patient, and medical indication exists~~
- 14 ~~for the treatment or advice, or it is provided for health or~~
- 15 ~~well-being.~~
- 16 ~~(2) It is provided after the physician and surgeon has given the~~
- 17 ~~patient information concerning conventional treatment and~~
- 18 ~~describing the education, experience, and credentials of the~~
- 19 ~~physician and surgeon related to the alternative or~~
- 20 ~~complementary medicine he or she practices.~~
- 21 ~~(3) It does not cause a delay in, or discourage traditional~~
- 22 ~~diagnosis of, a condition of the patient.~~

1 (4) *It does not cause death or serious bodily injury to the*
2 *patient.*

3 (b) *For purposes of this section, “alternative or*
4 *complementary medicine” means those health care methods of*
5 *diagnosis, treatment, or healing that are not generally used but*
6 *that provide a reasonable potential for therapeutic gain in a*
7 *patient’s medical condition that is not outweighed by the risk of*
8 *the health care method.*

9 ~~109336. (a) Notwithstanding any provision of this article,~~
10 ~~Article 1 (commencing with Section 109250), or any other~~
11 ~~provision of law, no physician and surgeon licensed pursuant to~~
12 ~~Chapter 5 (commencing with Section 2000) of Division 2 of the~~
13 ~~Business and Professions Code, or a naturopathic doctor licensed~~
14 ~~pursuant to Chapter 8.2 (commencing with Section 3610) of~~
15 ~~Division 2 of the Business and Professions Code, shall be in~~
16 ~~violation of this chapter or any other law solely on the basis that~~
17 ~~the advice or treatment for cancer rendered by the physician and~~
18 ~~surgeon or naturopathic doctor to a patient is an innovative or~~
19 ~~evolving medical treatment or natural health or drugless~~
20 ~~methodology, provided that the advice or treatment rendered~~
21 ~~complies with the requirements of Section 2234.1 of the Business~~
22 ~~and Professions Code.~~

23 ~~(b) A licensed physician and surgeon and a licensed~~
24 ~~naturopathic doctor may provide natural health or drugless~~
25 ~~methodologies as part of complementary, combined, or modified~~
26 ~~conventional allopathic treatment for cancer rather than~~
27 ~~conventional allopathic treatments. These physicians and~~
28 ~~surgeons and naturopathic doctors may be independent~~
29 ~~practitioners or partners in a shared practice with a conventional~~
30 ~~allopathic physician, and patients may be referred to them by~~
31 ~~qualified conventional allopathic cancer specialists.~~